

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF TENNESSEE
NASHVILLE DIVISION**

WILLIAM DARRYN BUSBY,)	
)	
Petitioner,)	
)	
v.)	No. 1:14-0064
)	Chief Judge Haynes
MICHAEL DONAHUE, Warden)	
)	
Respondent.)	

ORDER

Petitioner, William Darryn Busby, a state prisoner, filed this action pro se under 28 U.S.C. § 2254, seeking the writ of habeas corpus to set aside his convictions for the rape of a child. Under Rule 4 of the Federal Rules Governing Section 2254 cases after a review of the petition, "[i]f it plainly appears from the face of the petition and any exhibits annexed to it that the petitioner is not entitled to relief in the district court, the judge shall make an order for its summary dismissal and cause the petitioner to be notified. Otherwise the judge shall order the respondent to file an answer or other pleading within the period of time fixed by the court." Under 28 U.S. § 1915(d), "a complaint . . . is frivolous where it lacks an arguable basis either in law or in fact." Neitzke v. Williams, 490 U.S. 319, 325 (1989).

From a review of the petition, Petitioner asserts claims for ineffective assistance of counsel under the Sixth Amendment. These claims are not frivolous. Strickland v. Washington, 466 U.S. 468, 687 (1984).

Given the nature of these claims, it is **ORDERED** that a Federal Public Defender is appointed to represent Petitioner. The Federal Public Defender is granted thirty (30) days to file an amended petition, if necessary.

The Clerk is **ORDERED** to serve the respondent with a copy of the petition. In accordance with Rule 5 of the Rules Governing Section 2254 cases the respondent is **ORDERED** to file a response to this petition within forty (40) days from entry of this Order or after the filing of an amended petition, whichever is later.

Within ninety (90) days from the filing of the Respondent's answer, the parties' counsel shall file a joint statement of their respective positions on: (a) the need for discovery sought and why such discovery was not pursued in state court; (b) the necessity for an evidentiary hearing with a statement of the claims for which such a hearing is necessary and why an evidentiary hearing was not pursued in the state court; (c) a listing of each exhausted claim with a brief summary of why the State courts' decision is reasonable or unreasonable and (d) a list of each claim in the federal habeas petition that is subject to procedural default and any justification showing cause or prejudice for the default or the absence thereof.

Within 180 days from the date of the Respondent's Answer and prior to the filing of any memoranda of law, Petitioner shall file a summary of the state court record, on the following subjects and in the order set forth below:

- I. A quotation of the findings of the appellate court on the Petitioner's direct appeal setting forth the factual bases of the Petitioner's conviction;
- II. A quotation from the Appellant's brief on Petitioner's direct appeal of the issues presented with citation to the page(s) of the brief for the federal law relied upon for each claim as well as any other portion of the Appellant's brief or in the appellate court's opinion(s) that Petitioner relies upon to show that his claim(s) in this action were presented as federal claims to the state court. Petitioner


shall also list the specific pages of the Appellant's brief and/or the state court opinion for those federal decisions;

III. The Petitioner shall also file a quotation of the issues presented from the Appellant's brief in any post-conviction appeal with citation to the page(s) of the brief for the federal law relied upon for each claim as well as any other portion of the Appellant's brief or the appellate court's opinion that shows that the claim(s) in this action were presented as federal claims to the state courts. Petitioner shall also list the specific pages of the Appellant's brief or the state court opinion for those citations; and

4 The Petitioner shall provide the quotation from the last state appellate court opinion with its reasoning for its ruling on each claim in the Petition in this action.

It is so **ORDERED**.

ENTERED this the 17th day of June, 2014.



William J. Haynes, Jr.
Chief United States District Judge